

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 1288

AN ACT

To repeal section 105.473, RSMo, and to enact in lieu thereof three new sections relating to ethics.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 105.473, RSMo, is repealed and three new
2 sections enacted in lieu thereof, to be known as sections
3 105.459, 105.473, and 1, to read as follows:

4 105.459. 1. No executive branch employee shall solicit or
5 accept, directly or indirectly, on behalf of the employee or any
6 member of the employee's household, any gift, including but not
7 limited to any gratuity, service, favor, food, entertainment,
8 lodging, transportation, loan, loan guarantee, or any other thing
9 of monetary value, from any person or entity that is registered
10 in this state as a lobbyist as defined in section 105.470.

11 2. The prohibition in subsection 1 of this section shall
12 not apply to the following:

13 (1) A gift given by a member of the employee's immediate
14 family, or by an individual if the gift is given for a
15 nonbusiness purpose and is motivated by a close personal
16 friendship and not by the position of the employee;

17 (2) Informational materials in the form of books, articles,

periodicals, other written materials, audiotapes, videotapes, or other forms of communication, and travel and lodging expenses in connection with a fact-finding, economic development, or educational trip sponsored by a bona fide organization;

(3) Sample merchandise, promotional items, appreciation tokens if they are routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business, unsolicited tokens or awards of appreciation, honorary degrees, bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento, and similar items provided that such items shall not be in a form that can be readily converted to cash, and modest items or tokens given by an organization as a display of that organization's esteem when it would be awkward or rude to refuse, such as t-shirts, ball caps, coffee mugs, or similar items;

(4) Modest items of food and refreshments such as soft drinks, coffee, and doughnuts offered other than as part of a meal;

(5) Food, refreshments, meals, foodstuffs, entertainment, beverages, or intrastate travel expenses that are provided in connection with an event where the employee is a speaker or part of a panel discussion at a scheduled meeting or an established or recognized membership organization that has regular meetings;

(6) Loans from established financial institutions made in the ordinary course of business on usual and customary items, so long as there are no guarantees or collateral provided by a registered lobbyist as defined in section 105.470;

(7) Anything for which market value is paid by the

1 employee.

2 3. No employee violates this section if the employee:

3 (1) Did not know that the gift was paid for by a lobbyist
4 registered in this state and the employee takes reasonable
5 remedial action, including but not limited to returning the gift,
6 paying market value for the gift, or donating the gift to a
7 nonprofit or charitable organization; or

8 (2) Did not actually receive a gift that was erroneously
9 reported on a lobbyist report filed with the Missouri ethics
10 commission. In a case where an erroneous lobbyist report is
11 filed, the employee shall take appropriate steps to ensure that a
12 correction in the report is made.

13 105.473. 1. Each lobbyist shall, not later than January
14 fifth of each year or five days after beginning any activities as
15 a lobbyist, file standardized registration forms, verified by a
16 written declaration that it is made under the penalties of
17 perjury, along with a filing fee of ten dollars, with the
18 commission. The forms shall include the lobbyist's name and
19 business address, the name and address of all persons such
20 lobbyist employs for lobbying purposes, the name and address of
21 each lobbyist principal by whom such lobbyist is employed or in
22 whose interest such lobbyist appears or works. The commission
23 shall maintain files on all lobbyists' filings, which shall be
24 open to the public. Each lobbyist shall file an updating
25 statement under oath within one week of any addition, deletion,
26 or change in the lobbyist's employment or representation. The
27 filing fee shall be deposited to the general revenue fund of the
28 state. The lobbyist principal or a lobbyist employing another

1 person for lobbying purposes may notify the commission that a
2 judicial, executive or legislative lobbyist is no longer
3 authorized to lobby for the principal or the lobbyist and should
4 be removed from the commission's files.

5 2. Each person shall, before giving testimony before any
6 committee of the general assembly, give to the secretary of such
7 committee such person's name and address and the identity of any
8 lobbyist or organization, if any, on whose behalf such person
9 appears. A person who is not a lobbyist as defined in section
10 105.470 shall not be required to give such person's address if
11 the committee determines that the giving of such address would
12 endanger the person's physical health.

13 3. (1) During any period of time in which a lobbyist
14 continues to act as an executive lobbyist, judicial lobbyist,
15 legislative lobbyist, or elected local government official
16 lobbyist, the lobbyist shall file with the commission on
17 standardized forms prescribed by the commission monthly reports
18 which shall be due at the close of business on the tenth day of
19 the following month;

20 (2) Each report filed pursuant to this subsection shall
21 include a statement, verified by a written declaration that it is
22 made under the penalties of perjury, setting forth the following:

23 (a) The total of all expenditures by the lobbyist or his or
24 her lobbyist principals made on behalf of all public officials,
25 their staffs and employees, and their spouses and dependent
26 children, which expenditures shall be separated into at least the
27 following categories by the executive branch, judicial branch and
28 legislative branch of government: printing and publication

1 expenses; media and other advertising expenses; travel; the time,
2 venue, and nature of any entertainment; honoraria; meals, food
3 and beverages; and gifts;

4 (b) The total of all expenditures by the lobbyist or his or
5 her lobbyist principals made on behalf of all elected local
6 government officials, their staffs and employees, and their
7 spouses and children. Such expenditures shall be separated into
8 at least the following categories: printing and publication
9 expenses; media and other advertising expenses; travel; the time,
10 venue, and nature of any entertainment; honoraria; meals; food
11 and beverages; and gifts;

12 (c) An itemized listing of the name of the recipient and
13 the nature and amount of each expenditure by the lobbyist or his
14 or her lobbyist principal, including a service or anything of
15 value, for all expenditures made during any reporting period,
16 paid or provided to or for a public official or elected local
17 government official, such official's staff, employees, spouse or
18 dependent children;

19 (d) The total of all expenditures made by a lobbyist or
20 lobbyist principal for occasions and the identity of the group
21 invited, the date and description of the occasion and the amount
22 of the expenditure for each occasion when any of the following
23 are invited in writing:

24 a. All members of the senate;

25 b. All members of the house of representatives;

26 c. All members of a joint committee of the general assembly
27 or a [standing] committee of either the house of representatives
28 or senate; or

1 d. All members of a caucus of the majority party of the
2 house of representatives, minority party of the house of
3 representatives, majority party of the senate, or minority party
4 of the senate;

5 (e) Any expenditure made on behalf of a public official, an
6 elected local government official or such official's staff,
7 employees, spouse or dependent children, if such expenditure is
8 solicited by such official, the official's staff, employees, or
9 spouse or dependent children, from the lobbyist or his or her
10 lobbyist principals and the name of such person or persons,
11 except any expenditures made to any not-for-profit corporation,
12 charitable, fraternal or civic organization or other association
13 formed to provide for good in the order of benevolence;

14 (f) A statement detailing any direct business relationship
15 or association or partnership the lobbyist has with any public
16 official or elected local government official.

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18 The reports required by this subdivision shall cover the time
19 periods since the filing of the last report or since the
20 lobbyist's employment or representation began, whichever is most
21 recent.

22 4. No expenditure reported pursuant to this section shall
23 include any amount expended by a lobbyist or lobbyist principal
24 on himself or herself. All expenditures disclosed pursuant to
25 this section shall be valued on the report at the actual amount
26 of the payment made, or the charge, expense, cost, or obligation,
27 debt or bill incurred by the lobbyist or the person the lobbyist
28 represents. Whenever a lobbyist principal employs more than one

1 lobbyist, expenditures of the lobbyist principal shall not be
2 reported by each lobbyist, but shall be reported by one of such
3 lobbyists. No expenditure shall be made on behalf of a state
4 senator or state representative, or such public official's staff,
5 employees, spouse, or dependent children for travel or lodging
6 outside the state of Missouri unless such travel or lodging was
7 approved prior to the date of the expenditure by the
8 administration and accounts committee of the house or the
9 administration committee of the senate.

10 5. Any lobbyist principal shall provide in a timely fashion
11 whatever information is reasonably requested by the lobbyist
12 principal's lobbyist for use in filing the reports required by
13 this section.

14 6. All information required to be filed pursuant to the
15 provisions of this section with the commission shall be kept
16 available by the executive director of the commission at all
17 times open to the public for inspection and copying for a
18 reasonable fee for a period of five years from the date when such
19 information was filed.

20 7. No person shall knowingly employ any person who is
21 required to register as a registered lobbyist but is not
22 registered pursuant to this section. Any person who knowingly
23 violates this subsection shall be subject to a civil penalty in
24 an amount of not more than ten thousand dollars for each
25 violation. Such civil penalties shall be collected by action
26 filed by the commission.

27 8. No lobbyist shall knowingly omit, conceal, or falsify in
28 any manner information required pursuant to this section.

1 9. The prosecuting attorney of Cole County shall be
2 reimbursed only out of funds specifically appropriated by the
3 general assembly for investigations and prosecutions for
4 violations of this section.

5 10. Any public official or other person whose name appears
6 in any lobbyist report filed pursuant to this section who
7 contests the accuracy of the portion of the report applicable to
8 such person may petition the commission for an audit of such
9 report and shall state in writing in such petition the specific
10 disagreement with the contents of such report. The commission
11 shall investigate such allegations in the manner described in
12 section 105.959. If the commission determines that the contents
13 of such report are incorrect, incomplete or erroneous, it shall
14 enter an order requiring filing of an amended or corrected
15 report.

16 11. The commission shall provide a report listing the total
17 spent by a lobbyist for the month and year to any member or
18 member-elect of the general assembly, judge or judicial officer,
19 or any other person holding an elective office of state
20 government or any elected local government official on or before
21 the twentieth day of each month. For the purpose of providing
22 accurate information to the public, the commission shall not
23 publish information in either written or electronic form for ten
24 working days after providing the report pursuant to this
25 subsection. The commission shall not release any portion of the
26 lobbyist report if the accuracy of the report has been questioned
27 pursuant to subsection 10 of this section unless it is
28 conspicuously marked "Under Review".

1 12. [Each lobbyist or lobbyist principal by whom the
2 lobbyist was employed, or in whose behalf the lobbyist acted,
3 shall provide a general description of the proposed legislation
4 or action by the executive branch or judicial branch which the
5 lobbyist or lobbyist principal supported or opposed. This
6 information shall be supplied to the commission on March
7 fifteenth and May thirtieth of each year.

8 13.] The provisions of this section shall supersede any
9 contradicting ordinances or charter provisions.

10 Section 1. Any committee which is unable to return a
11 nonallowable contribution to a contributor because the
12 contributor:

13 (1) Cannot be located following a reasonable attempt to
14 locate the contributor;

15 (2) Returns the nonallowable contribution or otherwise
16 refuses acceptance of the nonallowable contribution; or

17 (3) Is a committee which has terminated;

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19 may transfer the nonallowable contribution to the director of
20 revenue for deposit to the general revenue of the state, or may
21 make an unconditional gift which is fully vested to any
22 charitable, fraternal, or civic organization or association
23 formed to provide for some good in the order of benevolence as
24 set forth in subdivision (7) of subsection 2 of section 130.034,
25 provided that such organization or association does not operate
26 for the primary purpose of influencing or attempting to influence
27 the action of voters for or against the nomination or election to
28 public office of one or more candidates or the qualification,

1 passage, or defeat of any ballot measure; paying a previously
2 incurred campaign debt or obligation of a candidate or the debts
3 or obligations of a committee; or contributing funds to another
4 committee.

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Charles Shields

Shannon Cooper, 120th